



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[SATS No. MD-056-FOR; Docket ID: OSM 2010-0008]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of the comment period.

SUMMARY: We are reopening and extending the public comment period on the proposed amendment to the Maryland regulatory program (the “Maryland program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) that was originally published on January 28, 2011, and was later reopened on March 10, 2011, to extend the comment period and announce a public meeting. The amendment involves provisions to Maryland’s program to regulate coal combustion byproducts (CCBs) and, specifically, the use of CCBs in surface coal mining and reclamation operations within Maryland. The comment period is being extended to incorporate subsequent information that we received from Maryland in response to comments received during the public meeting.

This document gives the times and locations that the Maryland program, and this submittal, are available for your inspection, the comment period during which you may submit written comments, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., local time [Insert date 15 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments, identified by “MD-056-FOR; Docket ID: OSM-2010-0008”, by either of the following two methods:

Federal eRulemaking Portal: www.regulations.gov. The proposed rule has been assigned Docket ID: OSM-2010-0008. If you would like to submit comments through the Federal eRulemaking Portal, go to www.regulations.gov and follow the instructions.

Mail/Hand Delivery/Courier:

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Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Ben Owens, Telephone: (412) 937-2827. E-mail: bowens@osmre.gov

SUPPLEMENTARY INFORMATION:

On January 28, 2011, (76 FR 5103) we published a proposed rule to Maryland’s program (Administrative Record No. 588-008). Maryland added regulations to regulate coal combustion byproducts and to establish requirements pertaining to the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of coal combustion byproducts (CCBs) within the State of Maryland. In total, these regulations pertain to all CCB activities in the State, and not just surface coal mining and reclamation operations. However, a section of the added regulations specifically pertains to surface coal mining and reclamation operations and is proposed to be part of Maryland’s Federally approved state program. The regulation specific to

surface coal mining and reclamation operations has been added as a new regulation, Regulation .08 under COMAR 26.20.24, Special Performance Standards.

On March 20, 2011, (76 FR 13112) we extended the public comment period (Administrative Record No. MD-588-012.1) and provided a notice of public hearing. The comment period was reopened and extended in order to afford the public more time to comment and to allow enough time to hold a public hearing as requested by a representative of the Sierra Club. On March 21, 2011, a public meeting was held and public comments were received.

In addition to the public comments that were received, we also received additional information from Maryland. On March 28, 2011, (Administrative Record No. MD-588-018) Maryland sent us a letter providing comments on the proposed amendment. In summary, Maryland requested that we consider the following specific comments in our review of their requested amendment:

1. Public notices are required for new permits and for modifications of existing permits that constitute a significant departure from the method of conduct of mining or reclamation operations contemplated by the original permit.
2. Probable Hydrologic Consequences (PHC) determinations and Cumulative Hydrologic Impact Assessments are required for new permits and significant modifications to existing permits.
3. The TCLP leachate analysis is the procedure specifically referenced in EPA regulation 40 CFR 261.24 as the procedure to use in the determination of toxicity characteristics.

4. There are no provisions for isolating CCB material from ground water at coal mine utilization sites because the intent is to utilize the alkaline CCBs to provide alkalinity to mine backfills.

The solubility of alkaline CCB materials is a desirable attribute.

5. Mine sites utilizing and disposing CCBs are required to submit monitoring data for 23 parameters annually and a shorter list of 8 parameters quarterly.

6. No additional bond has been required at CCB utilization and disposal sites because the planned use does not propose modification of the reclamation plan upon which the bond is based.

We are reopening and extending the comment period to incorporate this information that we received from Maryland.

Public Comment Procedures:

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Pennsylvania program.

Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your

personal identifying information - may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We cannot ensure that comments received after the close of the comment period (see DATES) or sent to an address other than those listed above (see ADDRESSES) will be included in the docket for this rulemaking and considered.

Electronic or Written Comments:

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We would appreciate all comments relating to this specific issue, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to and analysis of the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or other relevant publications.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope, Regional Director
Appalachian Region

____11/21/11_____
Date

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